

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket Nos. 2019-103-10040C

Parcel No. H0023-23

**Steven Stoltenberg,**

Appellant,

vs.

**City of Davenport Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on December 16, 2019. Steven Stoltenberg was self-represented. Thomas Warner, Council for the City of Davenport, represented the Board of Review.

Steven Stoltenberg owns a commercial property located at 1411 Washington Street, Davenport. Its January 1, 2019, assessment was set at \$80,750, allocated as \$22,000 in land value and \$58,750 in improvement value. (Ex. A).

Stoltenberg petitioned the Board of Review and claimed the subject property's assessment was for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review denied the petition. (Ex. B).

Stoltenberg then reasserted his claim to PAAB.

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R.

701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

The subject property is a 0.126-acre site improved with a one-story wood and concrete block frame retail/warehouse building constructed between 1922 and 1938. The retail portion of the building is 1876 square feet with 1891 square feet of basement area. It is listed in below-normal condition with a 5+00 grade (below-average quality). There are three warehouse additions totaling 3187 square feet built between 1930 and 1938, all of which are listed in below-normal condition with a 4-10 grade (average quality). In addition to 65% physical depreciation and 15% economic obsolescence applied to all of the improvements, the Assessor has applied an additional 45% functional obsolescence to the retail portion and 15% to the warehouse portions. (Ex. A).

Stoltenberg believes his property is over assessed due to its condition and location. He testified the property suffers from deferred maintenance, it lacks market appeal due to bathrooms being located in the basement, and the lighting is outdated. He also believes his property's proximity to a poorly-maintained apartment, a bar that has had "a lot of problems," and boarded up properties negatively affect his property's value. We again note his property's assessment has been adjusted to reflect significant physical depreciation, as well as functional and external obsolescence.

Stoltenberg also submitted four sales he believes support his claim which are summarized in the following table. (Exs. D-G).

Comparable Property	Base SF	Sale Date	Sale Price	Assessed Value	Property Type
Subject	5,063	NA	NA	\$80,750	Retail/Warehouse
1 - 1509 Washington St	14,989	Nov-16	\$179,000	\$216,150	Warehouse
2 - 1502 Washington St	5,780	Dec-17	\$13,000	\$60,850	Retail
3 - 1602 Washington St	10,206	Feb-17	\$65,000	\$128,390	Fraternal Building
4 - 1234 Garfield Ct	2,516	May-18	\$125,000	\$179,520	Residential

Stoltenberg noted that all of the comparable properties sold for much less than their assessed values. In his opinion, this proves a trend of over assessment.

He testified Sale 1 is located the closest to his property and is a similar warehouse facility with some finish. He explained it was used by the previous owner as an auto parts store/warehouse, but admits it is now mostly a warehouse. The property record card for Sale 1 indicates the sale was a normal transaction. (Ex. D). Because Stoltenberg believes this property is the most similar to his but three times larger, he asserts the subject property is worth one-third of the sale price, approximately \$60,000. (Ex. 1). We note this sale occurred in 2016 and therefore may not accurately reflect a 2019 market value. Stoltenberg also pointed out that this property's lot is larger than his "postage stamp lot." Because of this, he does not believe the subject site could be sold for its current assessed value of \$22,000.

Stoltenberg noted Comparable 2 sold for much less than its assessed value. (Ex. E). Stoltenberg believes this property is used as a warehouse and there may be someone living upstairs. He testified that he looked in the building and it was in bad shape.

Comparable 3 also sold for less than its assessed value. (Ex. F). Stoltenberg testified he spoke with a person who wanted to buy the property for \$90,000, but the deal did not go through because the City had multiple requirements. We note this sale was purchased by Compassion Church and the sale code listed on the property record card (D2) indicates it was a sale by or to a government or exempt organization. (Ex. F).

Comparable 4 is a residential property. Stoltenberg is the current deed holder and the sale was listed as a normal contract sale. (Ex. G). He noted its 2018 assessed value was \$198,500 and that all he could sell it for was \$125,000. He realizes this is not

a commercial property but believes it demonstrates assessments are too high compared to sale prices.

Reviewing the property record cards for each of the sales, we note there are significant differences between them and the subject such as their site sizes, age, gross building area, condition, and use amongst other factors. Stoltenberg made no adjustments for these differences to arrive at an opinion of the subject's market value as of January 1, 2019.

The Board of Review did not call any witnesses.

### **Analysis & Conclusions of Law**

Stoltenberg asserts the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(2). The burden of proof is upon the taxpayer, who "must establish a ground for protest by a preponderance of the evidence. *Compiano*, 771 N.W.2d at 396.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.*

The first step in this process is determining if comparable sales exist. *Soifer*, 759 N.W. 2d at 783. "Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court." *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86,88 (Iowa 1977)). Typically, market value is demonstrated with comparable sales, a competent appraisal, or a comparative market analysis.

Stoltenberg contends the subject's 2019 assessment should be \$70,000. He offered four properties in support of his claim. However, all four of the sales are

significantly different than the subject. For example, two properties are significantly larger in size; one comparable was noted to be in very poor condition; and one is a single family residence. Although all of the properties sold for less than their current assessment, we note that the majority of the sales are also somewhat dated, having occurred in 2016 and 2017 compared with the assessment date of January 1, 2019. Ultimately, Stoltenberg did not adjust the sales to arrive at a conclusion of value as of January 1, 2019. *Soifer*, 759 N.W.2d at 783 (“When sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments”). We conclude the unadjusted sales are not sufficiently persuasive and do not demonstrate the subject property is over assessed.

Viewing the record as a whole, we find Stoltenberg failed to show his property is assessed for more than the value authorized by law.

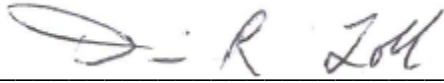
## **Order**

PAAB HEREBY AFFIRMS the City of Davenport Board of Review’s actions.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial review action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



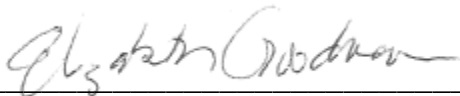
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Dennis Loll, Board Member



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Karen Oberman, Board Member



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Elizabeth Goodman, Board Member

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City of Davenport Board of Review by eFile